

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

APPROVED 9/13/10

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 23rd day of August 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

A moment of silence was observed in memory of Jeffrey Goncalo, son of Town Administrator, James C. Goncalo.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President	Cecil E. Leonard
	Hannibal Costa - Absent	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Arruda requested removal of item A-5, Treasurer's Distribution of Salary Survey, from the Consent Agenda. Councilor Lambert requested removal of item A-6, Distribution of Draft Pay As You Throw Regulations

Councilor Roderick made a motion, seconded by Councilor Arruda to accept the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes from Regular Council Meeting June 21, 2010
- b. Approval of Minutes from Workshop/Special Council of June 28, 2010

A-2-Receipt of Minutes from Various Board and Commissions:

- a. Wastewater Management Commission

A-3-Correspondence

- a. Received From Jamestown Committee on LNG Threat Regarding September 8th "Congress of Councils" Meeting and Information Release

A-4- Approval of Tax Assessor Abatements

Treasurer's Distribution of Salary Survey 2010-2011

Councilor Arruda brought attention to the \$83,000 salary listed for the Recreation Director. Treasurer DiMattia noted a correction was made to that document, should be listed as \$8,300.00.

Councilor Roderick made a motion, seconded by Councilor Leonard to accept as corrected. Motion passed unanimously.

Town Solicitor and Town Administrator – Distribution of Draft Pay As You Throw Regulations, and Request to Schedule Public Hearing for September 13th Meeting

Councilor Lambert suggested moving the Public Hearing for the Draft Pay As You Throw (PAYT) to a later date. There is a learning curve for this program, a financial burden, would like to see implemented by this Town Council. Solicitor Teitz noted the resolution doesn't need a Public Hearing, was already accepted as an ordinance. A public input hearing would occur given the nature and the significant public concern.

Councilor Lambert made a motion to consider the draft as a resolution to be reviewed on September 27th and advertised as a Public Hearing on that date. Seconded by Councilor Roderick motion passed unanimously.

Councilor Roderick made a motion to move item E-1, Motion to Reconsider Vote for Conditions to Noise Variance to Evelyn's Drive-In, out of order. Seconded by Councilor Leonard motion passed unanimously.

UNFINISHED BUSINESS:

Councilor Roderick – Motion to Reconsider Vote for Conditions to Noise Variance Granted to Evelyn's Drive-In, 2325 Main Road for "Singing Out Against Hunger" Fundraiser on September 11, 12 and 13th. NOTE: If Motion to Reconsider Passes, Public Hearing Will Be Reconvened Immediately Thereafter.

Councilor Roderick made a motion, seconded by Councilor Lambert, to reconsider the vote for conditions to a Noise Variance granted to Evelyn's Drive-In, for "Singing Out Against Hunger" fundraiser on September 10, 11 and 12th. Motion failed on a vote of 3-3, Councilors Arruda, Durfee and Bollin opposed.

PUBLIC HEARINGS- ADVERTISED:

Possible reopening of request for a variance to the Noise Ordinance; Section 38 of the Town of Tiverton Code of Ordinances by Jane Bitto, Evelyn's Drive-In, 2325 Main Road, Tiverton. The requested variance is to allow for live music on the grounds of the restaurant property for a fundraiser "Singing Out Against Hunger" on September 11th, 12th and 13th, 2010 between the hours of 12:00 p.m. and 9:30 p.m.

This Public Hearing will be taken up after Item E-1 below, only if the motion to reconsider passes. The order of any item on the Agenda may be moved at the discretion of the Town Council.

The motion to reconsider failed, there was no public hearing.

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

Vincent J. Storti - dba Vincent's Restaurant, 1148 Stafford Road– Request Approval of Victualling License – Subject to Meeting All Legal Requirements

Councilor Lambert made a motion, seconded by Councilor Roderick to approve the request for a Victualling License for Vincent J. Storti, d/b/a Vincent's Restaurant, 1148 Stafford Road, subject to meeting all legal requirements. Motion passed unanimously.

Nelson A. Luz - d/b/a Luz Fresh Seafood – Request Approval of Hawkers License – Subject to Meeting All Legal Requirements

Councilor Roderick noted the proposed location at the intersection of Hurst Lane and Stafford Road was a bad traffic location. Has nothing against hawking license for this vendor, this is just not a good location. People would

have to drive across a busy Stafford Road. Councilor Arruda questioned whether views would be obstructed for those coming out of Hurst Lane and whether could issue license to vendor for use at different location. Solicitor Teitz noted a hawker license should have a specific location, could refer to Police Chief. Councilor Bollin felt doesn't feel should refuse, like to see Police Chief position.

Councilor Durfee made a motion to continue this item to September 13, 2010, in order to hear from the Police Chief. Seconded by Councilor Leonard motion passed unanimously.

Councilor Roderick recused himself and left the Council table since he lives there.

Annual Renewal of Countryview Estates LLC License – Continued From July 12, 2010 Council Meeting

DPW Director Steve Berlucchi had emailed the Clerk a memo, which was passed out to the Council regarding the paving. The paving was acceptable but the sides of the newly paved roads need loam and seed.

Councilor Durfee made a motion to grant the renewal of the Countryview Estates license for a term of one year. Councilor Arruda seconded the motion. Councilor Leonard noted the Council could add the seeding and loaming as a condition of the license. Councilor Durfee amended the motion to include the loaming and seeding is completed in ninety days. Solicitor Teitz pointed out right now the Code of Ordinances has Manufactured home license expiring June 30th. As part of the Code review process, planning to have all licenses renewed November 30th, discovered in January.

Councilor Durfee amend the motion to approve the license renewal for Countryview Estates LLC to November 30th concurrent with other licenses, the loaming and seeding to be completed. Seconded by Councilor Leonard motion passed unanimously.

Councilor Roderick returned to the Council table at this time.

APPOINTMENTS & RESIGNATIONS:

Charles E. Lawrence, 108 Long Pasture Way – Request Appointment to Harbor Commission

Council interviewed Mr. Lawrence, lived in Town over six years, fisherman several decades, substantial experience on the water, wanted to make a contribution.

Councilor Durfee made a motion, seconded by Councilor Roderick to appoint Charles E. Lawrence, 108 Long Pasture Way, to the Harbor Commission for the longest possible term. Motion passed unanimously.

Adoption of Resolution Establishing the Financial Town Meeting Changes Advisory Committee

President Bollin read the resolution establishing the Financial Town Meeting Changes Advisory Committee

TOWN OF TIVERTON

Resolution Establishing

The Financial Town Meeting (FTM) Changes Advisory Committee

WHEREAS, the Town Council has determined that there is significant concern in the community regarding the current operation and efficiency of the Financial Town Meeting ("FTM"), as evidenced in part by several proposed amendments to the Town Charter to replace and/or modify the FTM; and

WHEREAS The Town Council believes that such changes should be thoughtfully studied and carefully considered.

IT IS HEREBY RESOLVED, by the Town Council of Tiverton that the Financial Town Meeting Changes Advisory Committee ("Committee) is hereby established and organized as follows:

1. Purpose

The Committee shall consider and review the recently proposed amendments to the Town Charter regarding the FTM, shall review the proposed amendments regarding the FTM that have been passed and rejected by the voters over the past decade, and shall prepare a proposed amendment or amendments for submission to the Town Council for possible submission to the voters.

2. Membership
The membership of the Committee shall be composed of:
 - a. Two (2) Co-Chairs to be appointed by the Town Council from the public, and
 - b. Four (4) members to be appointed by the Town Council from the public. The putative Co-Chairs may each nominate two (2) members, but the Town Council shall not be required to appoint such nominees.
 - c. The Committee shall elect a Secretary from among its membership.
3. The Committee shall meet at the call of either of the Chairs, or upon the written request of any three members. It shall be deemed a public body and subject to all requirements of the Open Meetings Act and the Access to Public Records Act.
4. The Committee shall report at least quarterly to the Town Council, setting forth its achievements, projects and goals, and shall submit a final report, including proposed amendment or amendments, not later than June 1, 2011.
5. The Committee shall cease to exist on July 31, 2011.

Adopted by the Town Council on the 23rd day of August 2010.

Councilor Roderick made a motion, seconded by Councilor Lambert to approve the resolution establishing the Financial Town Meeting (FTM) Changes Advisory Committee. Motion passed unanimously.

Appointments:

**Co-Chairman Jeffrey Caron, 164 Nanaquaket Road
Ave
Jeffrey Sroczynski, 1966 Main Road
Robert B. Gaw, 199 Lepes Road**

**Co-Chairman Brian Medeiros, 127 Grinnell
Ave
Laura Epke, 532 Neck Road
Deborah Pallasch, 432 Lake Road**

Councilor Durfee made a motion, seconded by Councilor Roderick to appoint Jeffrey Caron and Brian Medeiros as Co-Chairmen and to appoint Jeffrey Sroczynski, Robert B. Gaw, Laura Epke and Deborah Pallasch to the Financial Town Meeting Changes Advisory Committee. Motion passed unanimously.

UNFINISHED BUSINESS-Continued:

Councilors Durfee and Roderick – Continued From August 10th Meeting – Draft Budget and Revenue Reports of June 30, 2010

Councilor Roderick questioned Treasurer DiMattia, as he has at several Council meetings, where the Town stands financially. Treasurer DiMattia did not have a final figure, has had the auditors in, getting closer. Councilor Roderick pointed out whether the Town has an audit or not, the Treasurer should have some idea where the Town stands, not looking for a definite number. Treasurer DiMattia noted it was an ongoing fluid process, would not go on record with a number. Councilor Roderick said prior to any adjustments, the auditor could tell him, should have a rough idea if the Town is bankrupt.

Councilor Durfee noted the Council did ask in early July, were given a host of emails by the Treasurer from finance directors in other Towns, including one from Middletown where that Council was given preliminary figures based on quarterly reports to the State. Councilor Durfee asked the Town Administrator if he had any idea of preliminary figures. Administrator Goncalo, who is responsible to administer the Budget, and is of particular interest to him to control and monitor accounts. The Administrator's unaudited estimate was the Town had between \$300,000 and \$350,000 to the good, just on the municipal side. Councilor Durfee noted that estimate was achieved by looking at reports, revenue downfalls and expenditures.

Treasurer DiMattia noted the reports have been provided to the Administrator by his office although the Administrator may have more current ones than the Council. Councilor Durfee wanted to know when the reports would be provided to the Council, which is not asking for audited figures. Councilor Roderick also asked for reports. Councilor Durfee wanted an answer to the question in writing as to why the amounts for Social Security and health insurance seem to be underreported. Treasurer DiMattia agreed to provide.

NEW BUSINESS:

Councilor Leonard – Request Chairperson of Planning Board Report to Council Status of Board's Work on New Wind Turbine Regulations

Councilor Leonard requested a status report on the Planning Board's work on New Wind Turbine regulations, Town through the East Bay Energy Consortium, is moving toward putting turbines at the Industrial Park, curious about individual home windmills.

Steve Hughes, Chairman of Planning Board addressed Council. Mr. Spencer was on vacation. There have been two P/B subcommittee meetings with Chris Spencer, Steve Clark from Commonwealth Engineering, and Open Space. Holding off on requests until Garry Plunkett, Town Representative of East Bay Consortium gives a report and presentation to the Council. Looks like it will need two sets of regulations for each condition, residential and commercial, moving as quickly as possible. Councilor Leonard thanked Chairman Steve Hughes for taking the time to report to Council.

Councilor Leonard – Request Planning Board Chair and Town Administrator Provide Council with Status Report on Creation of Design Review Standards and Establishment of Design Review Commission per Comprehensive Community Plan

At a previous Council meeting, Chris Spencer, Town Planner, said he decided design standards weren't needed, Councilor Leonard concerned with the Comp. Plan being modified? Believe a set of standards is important. Planning Board Chair Steve Hughes spoke on issue; Mr. Spencer was out of Town. If there was an issue a technical review board could handle. In 2009 rewrote development plan review Article 20, although no standards drafted to this day, they start with the Technical Review Committee (TRC) and work with them to develop plan approval. Have had several discussions, should work towards standards. Questioned the Solicitor, is this something the Town must have?

Solicitor Teitz noted Councilor Leonard's initial memory was correct. Uncomfortable with a separate design committee, but to implement standards by the Tech Review Comm. gives flexibility, required to be chaired by the Administrative Officer, can enforce design guidelines if they exist. Have to be prepared and adopted by the Planning Board after a Public Hearing. From both sides, less likely to be sued if standards exist. most developers want to know in advance.

Laura Epke, Municipal Buildings Feasibility Advisory Committee Request Approval of the Preparation and Dissemination of RFP for Nonquit School

Laura Epke, Chair of the Municipal Buildings Feasibility Advisory Committee (MBFAC) requested approval of the preparation of an RFP for Nonquit School as the Committee is moving along rapidly. Plan to hold a workshop to get input to help define the criteria for the RFP. Chris Spencer was willing to help write the ad. The workshop would be Sept. 1st at the High School Library at 7:00 p.m. Would also try to advertise in trade journals. Solicitor Teitz checking to see if RFP must also be advertised in a minority paper. Minimum general requirement is a newspaper circulated in Town.

Councilor Roderick made a motion for approval to prepare an RFP for Nonquit School and then have Council review. Seconded by Councilor Durfee motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

1. The Municipal Buildings Feasibility Advisory Committee will hold a Workshop on the future use of Nonquit School on September 1, 2010 at 7:00 p.m. at the Tiverton High School Library.
2. This Saturday from 1:00-4:00 p.m., 30 URI students will be surveying storm drains in the North end of Tiverton, especially those that enter into the Bay. DPW Director Berlucchi noted this was part of the Stormwater 2 report.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Lambert felt the Council would come to regret the decision made this evening not to reconsider the vote for Singing Out Against Hunger. There are some misconceptions, understand some people might have their

sleep disturbed; have to put on an equal scale. Public Hearing, should have those who object tell Council, been told reportedly this will end the program. President Bollin noted two other communities have the fundraiser in a public venue, not at a business. Councilor Lambert did not think advocates for the variance had enough notice. Councilor Arruda noted a public hearing has been held for the last several years, not prohibited from holding the event. Councilor Leonard at this time asked to move the discussion.

CLOSED EXECUTIVE SESSION:

1.Town Solicitor - Litigation – 42-46-5(a) (2)

2.Town Administrator–42-46-5(a)(2)–Collective Bargaining – IBPO, IAFF, Teamsters

Councilor Arruda made a motion, seconded by Councilor Roderick to enter into Executive Session pursuant to 42-46-5(a)(2) – Litigation. Motion passed unanimously.

Councilor Arruda made a motion, seconded by Councilor Roderick to remain in Executive Session pursuant to 42-46-5(a)(2) – Collective Bargaining – IBPO, IAFF and Teamsters. Motion passed unanimously.

The Council entered into Executive Session at approximately 8:30 p.m.

The Council returned to Open Session at approximately 10:35a.m.

OPEN SESSION:

Councilor Bollin stated action had been taken in Executive Session.

Councilor Roderick motioned to seal the minutes, seconded by Councilor Arruda. Motion passed unanimously.

ADJOURNMENT:

Councilor Roderick motioned to adjourn, seconded by Councilor Arruda. Motion passed unanimously.

Council adjourned at approximately 10:40 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk